

## **REMARKS**

The Office Action dated November 12, 2008, has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

### **Status of the Claims**

Claims 26, 33, 34, 42, 55, 57, 60, 63 and 64 have been amended to more particularly point out and distinctly claim the subject matter of the invention. No new matter has been added. Claim 39, 53, 58 and 61 has been cancelled without prejudice or disclaimer. Thus, claims 26-31, 33-38, 40, 42 54-57, 59, 60 and 62-64 are currently pending in the application and are respectfully submitted for consideration.

### **Rejection under 35 U.S.C. § 112**

On page 2, the Office Action rejected claims 63 and 64 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Office Action alleged that “the limitations ‘computer program’ and ‘computer readable medium’ lack antecedent basis in the specification as originally filed and hence constitute new matter.” Applicant respectfully traverses the rejection.

The Office Action alleged that there is no antecedent basis for a program or a computer readable medium. It appears that the Examiner believes that the terms “program” and “medium” must explicitly appear in the specification. However, this is not the standard. MPEP § 608.01(g) states that the detailed description “should provide clear support or antecedent basis for the claims” (emphasis added). As such, there is no

strict requirement that verbatim antecedent support for claim recitations (i.e. the same exact words) be provided in the specification. Rather, it is sufficient that the claimed features be clearly supported by the specification. In the present case, the Office Action alleged that there is no support for a program or computer-readable medium. However, Figs. 1 and 2 the associated discussion thereof in the present application describe hardware devices such as user terminals and application servers. Both of these devices are commonly known to contain some form of processor and memory, and both devices are also well known to store and run software. As such, Applicant submits that a person of ordinary skill in the art (POSA) would readily appreciate that the operations discussed in the specification with respect to hardware devices in a communication network could clearly be carried out by software in some embodiments.

Further, the present application explicitly recites “PoC client software residing in the terminal” in paragraph [0031], and Applicant submits that further support for software implementations can also be found in paragraphs [0039] and [0040]. As such, Applicant submits that it is clear that software was contemplated to be within the scope of some embodiments of the present invention. Thus, there is sufficient antecedent basis for the subject matter of “medium” and “program”.

The Office Action also asserted that a POSA would be sophisticated enough to apply Chen et al. to allegedly arrive at the features of the claimed invention. However, the Office Action has not applied a uniform POSA standard since a POSA who is sophisticated enough to apply Chen et al., or combine Chen et al. with other cited art

documents, would almost certainly appreciate that functionality of a user terminal can generally be implemented via software. Thus, the art-based rejections and the rejection under 35 U.S.C. § 112, first paragraph, are antithetical to one another with respect to the POSA standard and cannot co-exist in the same Office Action.

Accordingly, it is respectfully submitted that the rejection is overcome and respectfully requested that the rejection be withdrawn.

### **Rejection under 35 U.S.C. § 101**

On page 3, the Office Action rejected claims 63 and 64 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Specifically, the Office Action alleged that “the claims disclose a ‘computer program’ and a ‘computer readable medium’, which lack antecedent basis in the specification as originally filed.” Applicant respectfully traverses the rejection.

Per the above, the Office Action put forth the conclusory assertion that because there is allegedly no description of a computer program and a computer-readable medium in the specification, asserting that these features were somehow non-statutory subject matter under 35 U.S.C. § 101. However, there is no basis for this conclusion under the MPEP or under U.S. statute, case law or regulation. 35 U.S.C. § 101 is primarily concerned with whether the **claim itself** recites statutory subject matter and is not concerned with the written description thereof (which is provided for under 35 U.S.C. § 112). As such, the consideration of the specification under a 35 U.S.C. § 101 rejection in the Office Action is inappropriate.

Further, the preamble of claims 63 and 64 recite a computer program embodied on a computer-readable storage medium. The claims further recite that the program is configured to control a processor. As such, claims 63 and 64 do not merely recite software *per se*, but rather an interrelation of software, storage and hardware that, when combined, explicitly tie the claims to a machine or manufacture. MPEP § 2106.01 states that “[w]hen functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” As such, claims 63 and 64 recite statutory subject matter in accordance with the MPEP and 35 U.S.C. § 101.

Accordingly, it is respectfully submitted that the rejection is overcome and respectfully requested that the rejection be withdrawn.

#### **Rejection under 35 U.S.C. § 102**

Claims 26-29, 33-36, 40, 42, 56, 57, 59, 60 and 62-64 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Chen et al. (U.S. Publication No. 2004/0203770). The Office Action took the position on pages 3-5 that Chen et al. discloses all of the features of the rejected claims. Applicant respectfully submits that Chen et al. fails to disclose or suggest all of the features of the above-rejected claims. Reconsideration of the claims is respectfully requested.

Independent claim 26, from which claims 27-31, 53 and 54 depend, recites a method including receiving, in a mobile terminal belonging to a communication group in

a mobile communication system, a triggering message indicating the communication group and informing the mobile terminal of a packet-based service session of the communication group to be initiated. The method also includes, in response to the receiving, bringing the mobile terminal to a state allowing reception of packets from a packet data network belonging to the mobile communication system to enable participation in the packet-based service session of the communication group. The receiving includes receiving the triggering message so that the triggering message is receivable from the mobile communication system regardless of whether the mobile terminal is ready to participate in the packet-based service session. The triggering message indicates a starting time for the packet-based service session and the mobile terminal is brought to the state substantially at the starting time.

Independent claim 33, from which claims 34-38, 40 and 55 depend, recites an apparatus including a processor configured to receive a triggering message. The triggering message indicates a communication group to which the apparatus belongs and informs the apparatus of a packet-based service session of the communication group to be initiated. The processor is also configured to bring, in response to the triggering message, the apparatus to a state allowing reception of packets from a packet data network, that is included in a mobile communication system, to enable participation in the packet-based service session of the communication group. The processor is configured to receive the triggering message so that the triggering message is receivable from the mobile communication system regardless of whether the apparatus is ready to

participate in the packet-based service session. The triggering message indicates a starting time for the packet-based service session and the processor is further configured to bring the apparatus to the state substantially at the starting time.

Independent claim 42, from which claims 56, 58 and 59 depend, recites an apparatus including a processor configured to compose a triggering message indicating a communication group including, in addition to the apparatus, at least one first terminal. The terminals of the communication group have unknown attachment statuses relative to a packet data network that is included in a mobile communication system. The processor is also configured to initiate sending of the triggering message from the apparatus to the at least one first terminal, so as to inform the at least one first terminal of a packet-based service session of the communication group to be initiated. The processor is configured to initiate the sending of the triggering message so that the triggering message can be received by a second terminal regardless of whether the second terminal is ready to participate in the packet-based service session. The second terminal is any of the at least one first terminal. The triggering message indicates a starting time for the packet-based service session and the processor is further configured to bring the apparatus to the state substantially at the starting time.

Independent claim 57 recites an apparatus including message composing means for composing a triggering message indicating a communication group including, in addition to the apparatus, at least one first terminal. The terminals of the communication group have unknown attachment statuses relative to a packet data network that is

included in a mobile communication system. The apparatus also includes first interface means for sending the triggering message from the apparatus to the at least one first terminal so as to inform the at least one first apparatus of a packet-based service session of the communication group to be initiated. The first interface means is configured to send the triggering message so that the triggering message can be received by a second terminal regardless of whether the second terminal is ready to participate in the packet-based service session. The second apparatus is any of the at least one first terminal. The triggering message indicates a starting time for the packet-based service session and the at least one first terminal is brought to the state substantially at the starting time.

Independent claim 60, from which claims 61 and 62 depend, recites a method including composing, in an originating mobile terminal, a triggering message indicating a communication group including, in addition to the originating terminal, at least one first terminal. The terminals of the communication group have unknown attachment statuses relative to a packet data network that is included in a mobile communication system. The method also includes sending the triggering message from the originating terminal to the at least one first terminal so as to inform the at least one first terminal of a packet-based service session of the communication group to be initiated. The triggering message is sent so that the triggering message can be received by a second terminal regardless of whether the second terminal is ready to participate in the packet-based service session. The second terminal is any of the at least one first terminal. The triggering message

indicates a starting time for the packet-based service session and the at least one first terminal is brought to the state substantially at the starting time.

Independent claim 63 recites a computer program embodied on a computer-readable storage medium configured to control a processor to perform a process, including receiving, in a mobile terminal belonging to a communication group in a mobile communication system, a triggering message indicating the communication group and informing the mobile terminal of a packet-based service session of the communication group to be initiated. The process also includes in response to the receiving, bringing the mobile terminal to a state allowing reception of packets from a packet data network belonging to the mobile communication system to enable participation in the packet-based service session of the communication group. The receiving includes receiving the triggering message so that the triggering message is receivable from the mobile communication system regardless of whether the mobile terminal is ready to participate in the packet-based service session. The triggering message indicates a starting time for the packet-based service session and the mobile terminal is brought to the state substantially at the starting time.

Independent claim 64 recites a computer program embodied on a computer-readable storage medium configured to control a processor to perform a process, including composing, in an originating mobile terminal, a triggering message indicating a communication group including, in addition to the originating terminal, at least one first terminal. The terminals of the communication group have unknown attachment statuses



relative to a packet data network that is included in a mobile communication system. The process also includes sending the triggering message from the originating terminal to the at least one first terminal so as to inform the at least one first terminal of a packet-based service session of the communication group to be initiated. The triggering message is sent so that the triggering message can be received by a second terminal regardless of whether the second terminal is ready to participate in the packet-based service session. The second terminal is any of the at least one first terminal. The triggering message indicates a starting time for the packet-based service session and the at least one first terminal is brought to the state substantially at the starting time.

As will be discussed below, Chen et al. fails to disclose or suggest all of the features of the presently pending claims.

Chen et al. generally discusses “methods and apparatus for [allegedly] optimizing the frequency of registrations as well as the area of paging in a wireless group communication network” (paragraph [0001]). “[A] method in a mobile station (MS) for registering the MS with a base station (BS) includes the steps of determining the number of cells identified in a first list and registering the MS with the BS, if the number of cells identified in the first list is equal to a predetermined limit” (paragraph [0005] of Chen et al.). “[A] method for paging a target mobile station (MS) includes the steps of receiving information destined for a target MS and paging the target MS at a paging area that is centered at a cell, in which the target MS last registered, and expands by a predefined number of cells around the cell” (paragraph [0006] of Chen et al.).

Independent claim 26 recites, in part, that “the triggering message indicates a starting time for the packet-based service session and the mobile terminal is brought to said state substantially at said starting time”. These features are somewhat similar to those recited in cancelled claim 39. Independent claims 33, 42, 57, 60, 63 and 64, which each have their own scope, recite similar features. On page 6, the Office Action conceded that Chen et al. does not teach or suggest these features. Rather, the Office Action relied on column 27, lines 56-59, of Maggenti et al. to allegedly cure these deficiencies of Chen et al. Applicant respectfully submits that Maggenti et al. also fails to teach or suggest these features.

Maggenti et al. generally discusses “a method and apparatus for providing group communication services in an existing communication system” (column 1, lines 10 and 11). Applicant submits that Maggenti et al. discusses group communications where **dedicated** (or continuously on) connections are used (see, for example, Abstract; see also column 12, lines 55-67, where it is discussed that mobile devices in Maggenti et al. have active packet connections with the communications manager). As such, Maggenti et al. cannot teach the case where a device is not reachable by packet communication. Moreover, Applicant submits that the cited section of Maggenti et al. fails to disclose or suggest a starting time in the future because only an estimate of the **present time** is discussed. Specifically, Maggenti et al. states that “CD 202 specifies the lifetime (t) of the session by providing its best estimate of the **start or current time**” (column 27, lines 56 and 57, emphasis added). Applicant submits that this indicates that the start time and

current time are equivalent. As such, Applicant submits that Maggenti et al. fails to disclose or suggest that the triggering message indicates a starting time for the packet-based service session and the mobile terminal is brought to said state substantially at said starting time, as claimed.

Claims 27-29, 34-36, 40, 56, 59 and 62 depend from independent claims 26, 33, 42 or 60 and add further features thereto. Thus, the arguments above with respect to the independent claims also apply to the dependent claims.

Per the above, Chen et al. fails to disclose or suggest all of the features of the above-rejected claims under 35 U.S.C. § 102(e) and Maggenti et al. further fails to cure these deficiencies of Chen et al. Accordingly, it is respectfully submitted that the rejection is overcome and respectfully requested that the rejection be withdrawn.

### **Rejections under 35 U.S.C. § 103**

Claims 30, 31, 37 and 38 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Chen et al. in view of Zabawskyj (U.S. Publication No. 2005/0136952). Claims 30, 31, 37 and 38 depend from independent claims 26 or 33 and add further features thereto. Nothing is cited or found in Zabawskyj, which generally discusses “a wireless instant messaging and multi-media conferencing solution” (paragraph [0009]), that overcomes the deficiencies of Chen et al. discussed above with respect to the independent claims. Thus, the arguments above with respect to the independent claims also apply to claims 30, 31, 37 and 38.

Accordingly, it is respectfully submitted that the rejection is overcome and respectfully requested that the rejection be withdrawn.

Claims 39, 53, 58 and 61 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Chen et al. in view of Maggenti et al. (U.S. Patent No. 6,477,150). Claims 39, 53, 58 and 61 have been cancelled without prejudice or disclaimer.

Accordingly, it is respectfully submitted that the rejection is moot and respectfully requested that the rejection be withdrawn.

Claims 54 and 55 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Chen et al. in view of Desai et al. (U.S. Patent No. 7,277,697). Claims 54 and 55 depend from independent claims 26 or 33 and add further features thereto. Nothing is cited or found in Desai et al., which generally discusses “establishing a teleconference over a telephony network” (column 1, lines 21 and 22), that overcomes the deficiencies of Chen et al. discussed above with respect to the independent claims. Thus, the arguments above with respect to the independent claims also apply to claims 54 and 55.

Accordingly, it is respectfully submitted that the rejection is overcome and respectfully requested that the rejection be withdrawn.

## **Conclusion**

For at least the reasons presented above, it is respectfully submitted that claims 26-31, 33-38, 40, 42 54-57, 59, 60 and 62-64, comprising all of the currently pending claims,

patentably distinguish over the cited art. Accordingly, it is respectfully requested that the claims be allowed and the application be passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, Applicant's undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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